

LAWS RELATING TO AMERICAN SEAMEN.

JULY 8, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. PAYNE, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany S. 95.]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (S. 95) to amend the laws relating to American seamen, for the protection of such seamen, and to promote commerce, submit the following report:

Although this bill is not in all respects perfect, it is a long advance in the direction of improving the surroundings and condition of the American seamen, and we recommend its passage.

Senate bill 95 is in reality an amendment of the House bill 6399, which passed the House June 9, 1896, and failed in the Senate in the last Congress.

Sections 1, 2, 3, 4, 5, 6, 7, 10, 12, 14, 15, 16, 17, 18, 20, and 21 are identical with House bill 6399 of the Fifty-fourth Congress.

Section 8 is the same, except that it included in its terms only the coastwise ports and requires a physician to examine the food when complaint is made.

Section 9 is substantially the same.

Section 11 is the same, except that it prescribes a punishment for the misdemeanor of sending a ship from port in an unseaworthy condition of a fine not exceeding \$1,000 or imprisonment not exceeding five years, or both.

Section 13 is substantially the same.

In section 19 there is a new definition of "domestic trade," which includes trade between ports of the United States, and ports of the United States with the Dominion of Canada, Newfoundland, the West Indies, and Mexico. Foreign trade includes trade between ports of the United States and foreign ports, except as above specified, and trade between Atlantic and Pacific ports of the United States. This section also provides, in addition to the punishment prescribed in the House bill 6399, a punishment for desertion in a foreign port of imprisonment for not more than one month, at the discretion of the court.

Section 22 is a new section, and prescribes a punishment for flogging or other forms of corporal punishment.

Section 23 provides for a scale of provisions nearly identical with that provided for in H. R. 6399. It also gives the seamen the option or right to demand this scale at any time. Otherwise the section is the same as that of H. R. 6399.

Section 24 leaves out the provision of the House bill making it unlawful "to pay any person other than an officer authorized by act of Congress any remuneration for the shipment of seamen." It also allows an allotment of not exceeding one month's wages in the "foreign trade" to an original creditor for the liquidation of any just debt for board or clothing contracted prior to any engagement.

Section 25 is the repealing clause.

Section 26 excludes the application of the act from fishing or whaling vessels or yachts, which is similar to a provision in House bill 6399.

The following is the report of this committee in the Fifty-fourth Congress on H. R. 6399:

The Committee on the Merchant Marine and Fisheries, having had House bill 6399 under consideration, report it back with amendments and the recommendation that it do pass as amended.

This bill is intended for the amelioration of the condition of the American seamen. It can not be denied that our navigation laws are a relic of a past age, and under them many abuses have arisen. The subject of any beneficial change in these laws is not an easy one. The seamen are inclined to be radical in their demands, while the owners, with the proverbial timidity which attaches itself to invested capital, are reluctant to consent to any changes that savor of untried experiments. The demands of the seamen appear in the bills introduced by Mr. Maguire (H. R. 1227, 1229, 1230, 1231, 1232, and 1233), while the concessions of the vessel owners are found in the bill (H. R. 6399) herewith reported as it was originally introduced. In some particulars this bill concedes more than the sailors ask, while in others it is far less liberal.

Your committee have given a large amount of time and attention to the relations of seamen and masters of vessels, and have heard fully all parties interested. The relation of the sailor and the officer of the vessel is hedged about with a system of stringent enactments that applies to no other industry. In all other avocations the laborer is made free to make his own contract, and can assign his wages as he pleases, quitting his employer at his own sweet will, with no other penalty than such as applies to every civil contract—the liability for damages for breach of agreement. It is not so with the salt-water seaman. If he backs out of his agreement he is liable to imprisonment; if he desires to pay a debt he is not permitted to assign his wages for the purpose, save in a limited degree. Flogging has been prohibited by law on board of vessels engaged in commerce since 1850, yet there is evidence of instances in which this statute is not regarded, though the instances are not frequent, and are in some cases exaggerated.

On the Great Lakes the seamen and the masters are as free to make an agreement as the employee and employer in any other calling. This system, by common consent, appears to work well there. The sailors are more self-respecting, and in every way better men and better citizens than those who sail the ocean. Your committee are constrained to believe that part of this is owing to the difference in the system, and that more liberal laws will induce a better class to become sailors on our merchant marine.

We can not, however, lose sight of the difficulties of the situation. Discipline on shipboard is imperative. Insubordination may imperil the lives of all on board. The master ex necessitate must administer the laws of the ship. It is his highest duty to enforce order and discipline, responsible always to the laws, when he reaches port, for any failure in duty or any injustice to the members of the crew.

Any changes in existing law must guard carefully the safety of human life, the better condition of the sailor, and the encouragement of the owner and master, because the latter give employment to the sailor.

The amended bill, if it becomes a law, will greatly improve the condition of the American sailor. It does away with many of the harsh features that now exist and is in line with recent legislation. Nor do your committee believe that it is unjust to the shipowner, or that it will in any way tend to impair discipline or encourage insubordination. We believe that it will do something toward inducing a better class of men to enter the merchant marine service.

The following is a statement of the main features of the bill:

Section 1 (4516 R. S.): The present law permits a master, if he chooses, to fill vacancies caused by desertion or casualty. Section 1 of House bill 6399 requires that

must fill such vacancies if he can get the proper men. Its object is to prevent vessels from going to sea with insufficient crews.

Section 2 (4520, R. S.): The amendment requires masters of vessels trading to British North America or the West India Islands to take out the same agreement with seamen as is now required in the coasting trade. This is at present the general practice, although the authority for it in law is somewhat doubtful. The doubt should be removed, and the propriety of requiring such an agreement in this trade, which is essentially coastwise, does not seem to be open to question.

Section 3 (4522, R. S.): This section of the bill allows the seaman twenty-four hours to back out of his agreement to sail on a vessel, but provides that if he does not ship, after having failed to take advantage of his twenty-four hours to indicate his purpose not to ship, he shall forfeit all his wages. The present law merely requires him to forfeit advances made to him. Advances are now prohibited by law; and if section 4522 of the present Revised Statutes be so construed as to include allotments under the term "advances," the allotments will have been consumed by boarding-house keepers and others, and there will be practically no penalty for desertion.

Section 4 (4526, R. S.) now provides that where a seaman is wrecked abroad before the termination of his voyage he shall be entitled to his wages up to the time his services terminate, but to nothing more, from the master or owner. Congress, however, appropriates \$50,000 annually for the relief of shipwrecked and distressed seamen abroad, and in sections 4577, 4578, and 4579, as amended (see Navigation Laws, pp. 71, 72), has made full provisions for the use of this fund. The report of the Auditor for State and other Departments (p. 7), shows that \$29,730.31 was expended for the relief of 1,067 seamen and adjustment of wages last year, as follows:

Board and lodging.....	\$6,309.55
Clothing.....	3,615.59
Medical aid.....	3,521.71
Other expenses.....	5,523.94
Loss by exchange.....	88.48
Passage to United States.....	10,671.04

29,730.31

Extra wages and arrears collected, \$198,203.76.

This section is the present custom in most cases where the shipwrecked seaman depends on the consul to send him home, though in cases where the seaman has wages coming to him he is usually required to turn them in toward meeting the expenses of his passage home. The British law is based on the theory that where by an act of God the sailor is left in a foreign land the Government should bring him home. Such is the theory of this section. This section and others are drafted with a view to treating seamen on American vessels as Americans in fact, or as such prospectively through naturalization.

Section 5 (4529 R. S.): This section of the bill increases from one-fourth to one-third the amount of balance of wages due the seaman, to which he is entitled immediately upon discharge, and, in general, provides for prompt payment of the wages of seamen.

Section 6 (4530 R. S.): This section of the bill strikes out the present requirement of law that the crew shall not receive all the wages due them until after the cargo or ballast is fully discharged, and instead provides for their final payment under the provisions of section 4529 as amended. The two sections should be taken together as designed to secure the promptest possible payment of wages.

Section 7 (4547 R. S.): This section differs from the present law by inserting the words beginning "In all cases where the matter in demand does not exceed one hundred dollars," to "proofs and hearing without further notice." It is accepted from the Maguire bills on the statement that it will result in the prompter settlement of disputes over wages at the end of the voyage.

Section 8 (4556 R. S.): This section of the bill makes material changes in the laws concerning the survey of vessels. The law now provides that any vessel bound to a foreign port, after the voyage is begun, may be turned back upon the request of an officer and a majority of the crew to the nearest port to make a survey of seaworthiness. The amended bill provides that a majority of the crew alone may make a demand for a survey of seaworthiness of the vessel before the vessel shall have left port.

Section 9 (4557 R. S.): This section is almost identical with the present law, which it restates in somewhat better form. The only change which it makes worth mentioning is that while the present law requires a vessel needing repairs to return to the port whence she first sailed, to be there refitted, this section provides that she shall return to the most convenient place, which, of course, is a gain to the ship.

Section 10 (4558 R. S.): This section materially changes the punishment inflicted on persons refusing to go on board a vessel which has been found seaworthy

The present law virtually commits the seaman to jail forever; this section of the bill forfeits the seaman's effects and wages.

Section 11 (4559 R. S.): The section is practically the present law, except that it provides for three surveyors instead of two, to prevent a tie.

Section 12 (4561 R. S.): This section provides that where a vessel is found unseaworthy, through neglect or design, the master shall pay one month's extra wages, as the law now requires, or may have the alternative of sending the sailor home to the nearest port of the United States or furnishing him with employment on a vessel acceptable to the sailor. The one month's wages is frequently spent by the sailor in dissipation abroad and then he becomes a charge on the consul, while if use is made of the alternative, our seamen abroad will be returned to the United States or furnished with employment. The last part of the section provides a penalty for sending a vessel to sea in an unseaworthy condition.

Section 13 (4564, R. S.) is obsolete and lacks a penalty clause. This new section requires the master or owner to provide a sufficient quantity of stores and fixes a penalty for neglect.

Section 14 (4566, R. S.): This section changes the penalty in the present law for the groundless complaint of a seaman in regard to provisions or water from a sum not exceeding one week's wages to a sum equal to the seaman's share of the expense of the survey of provisions, and also renders him liable to forfeit to the Marine-Hospital Service a sum not exceeding one week's wages.

Section 15 (4568, R. S.): Only a slight change from the present law.

Section 16 (4572, R. S.): The present law is of no value, as no penalty is provided. To insure the comfort of the crew a safe and warm room for their use in cold weather should certainly be supplied, and the owner or master should be subject to a penalty if such room is not provided. The only present exceptions created by the committee amendments are the steamships of the International Navigation Company and Pacific Mail, which would be required by the bill, if unchanged, to carry from 150 to 425 suits of clothing on each of their fast steamers for which there would be no purchasers, crews of those vessels always buying their clothing in England or the United States, China or Japan.

Section 17 (4581 R. S.): This section amends the present law by providing that when a seaman is discharged abroad he shall be provided with employment on a vessel agreed to by the seaman or with one month's extra wages. If the seaman is discharged by voluntary consent for the purpose of joining another vessel, as not infrequently occurs, he shall receive his wages up to the time of his discharge. If he is discharged on account of injury or illness he shall become a charge upon the United States and returned to the United States from the fund for distressed seamen. The United States ought to treat its distressed seamen abroad as generously as Great Britain does. Yet under the present law it is only after the entire amount of wages in his possession has been exhausted that the Government comes to his assistance.

Section 18 (4582 R. S.): When an American vessel is sold abroad it should be the duty of the owner or master to provide for the return of the crew to the United States or secure employment for them. The present law provides that the master shall pay one month's extra wages when the crew is discharged under these conditions, or he may provide them with other employment. The one month's wages are frequently wasted, and the seaman becomes a charge on the United States consul and the fund for distressed seamen. The owner or master is directly responsible for the discharge of the crew, as he has sold the vessel, and this bill accordingly provides that he shall either pay the expenses of the crew home or secure sufficient employment for them. It is in accord with the British law.

Section 19 (4583 R. S.): The principle in this section is substantially the same as that above stated. The present law requires one month's extra wages to be paid to the seaman if he has good grounds for demanding his discharge. This section extends the reasons for demanding a discharge, and, in addition to one month's wages, provides that the master shall return the seaman to the United States or provide him with adequate employment. This is a more just treatment of American seamen than that now provided by law.

Section 20 (4596, R. S.): The bill itself was a great change from the present law in that it left all imprisonment for desertion in the discretion of the court, instead of absolute as now. But your committee have gone further to relieve the maritime laws of their strictness, and have eliminated by their amendment all imprisonment for a violation of civil contract. They are not unmindful of the inconvenience and loss that may occur to the vessel by reason of the seaman's disregard of the obligation of his agreement. In the case of employers on railroads great inconvenience and loss often follow a strike, but no one proposes imprisonment as a remedy. Great Britain provides that the master may seize the sailor and convey him on board. But this law is said to have resulted in riots and street fights whenever the master has failed himself of its provisions, and has become an absolutely dead letter. The

proposition of the bill was to make this imprisonment subject to the discretion of the court.

The practical difficulty of carrying out this provision is that the sailor must lie in jail until he is tried, being unable to provide bail. It is practically enforced imprisonment for violation of a civil contract. Such imprisonment was abolished, so far as it related to the coastwise trade, in 1895, and your committee believe that there should no longer remain upon our statute books the anomaly of imprisonment, even in the discretion of the court, for the violation of a civil contract.

The penalties in the fifth and sixth paragraphs are reduced one-half.

The fourth, seventh, eighth, ninth, and tenth paragraphs are unchanged.

Section 21 (4597, R. S.): This section provides that wherever any offense under the previous sections is committed the entry should be made in the log book on the same day, so that the facts may be stated when fresh in the minds of all participants.

Section 22 (4600, R. S.): The present law fixes one month's extra wages as the penalty which the master must pay for causing desertion by cruel or unusual treatment. The amendment proposed requires the master also to return the seaman to the United States or to secure for him adequate employment. The shipping interests agree to this as a fair proposition and a step toward the suppression of brutal treatment by officers.

Section 23 (4612, R. S.): This section provides a new scale of provisions. The original scale in the Maguire bill, and also in House bill 6399, were submitted to the Surgeon-General of the Marine-Hospital Service, and your committee have adopted the recommendations of the latter, with a few changes.

Section 24 relates to allotments. It prohibits any allotment of a seaman's wages except to a dependent relative. This system of allotments causes more complaints than anything else in the present laws. The seamen claim that under it the shipping agents, or "crimps," as they are pleased to call them, get an unfair advantage. The seamen are compelled to sign allotment notes, which include an exorbitant fee for obtaining a shipping agreement for them, and they are entirely at the mercy of these agents. On the other hand, the vessel owners are anxious to have the system of allotments continued. They claim that it is necessary to the system, while they admit that there have been abuses under it. While your committee believe that the sailor should be free to make his own contract, they are willing to relieve him, even by taking away his right to assign his wages, from a system that seems to amount to unjust compulsion. The amendment is in the interest of freedom to make his own contract.

This bill was originally offered as a substitute for some fourteen bills referred to this committee, and which they have had under consideration, viz: House bills 1227, 1229, 1230, 1231, 1232, and 1233, introduced by Mr. Maguire; House bills 2670 and 2671, introduced by Mr. Payne; House bills 5288, 5551, 5556, 5557, 5558, and 5679, introduced by Mr. Low.

The committee recommend that the foregoing bills do lie upon the table, and that House bill 6399 as amended do pass.

